

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated November 17, 2006 (hereinafter Office Action) have been considered. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

With respect to the §112, second paragraph, rejection of Claims 6 and 7, Applicant has amended Claim 6 to remove the first instance of the article “the” from the second line of the claim. This change is believed to provide antecedent basis for the objected-to term “properties” and overcome the rejection. Applicant accordingly requests that the rejection be withdrawn.

With respect to the §112, second paragraph, rejection of Claims 9, 10, 12, 16, 21 and 24, Applicant respectfully traverses. The Examiner asserts that these claims are indefinite because they contain a trademark or a trade name. The claims include the trademarks Java and Symbian, which the Examiner identified as describing programming languages. Applicant notes that when the identity of a product referred to by a trademark is clear, the use of the trademark is permitted. MPEP §608.01(v). Applicant submits that the terms “Java application”, “non-Java application”, “Java Virtual Machine”, “Symbian operating system”, and “Symbian application” are clearly identifiable and not indefinite. For example, the United States Patent and Trademark Office has issued over 1,300 patents which include the term “Java” in their claims, over 200 patents which include the term “Java Virtual Machine” in their claims, and at least four patents which include the term “Symbian” in their claims to applicants other than the respective trademark owners. Each of these issued patents is attributed a presumption of validity including compliance with the requirements of §112, second paragraph. Thus, Applicant submits that the use of the trademarks “Java” and “Symbian” in the instant claims is appropriate and does not render the claims indefinite. In order to maintain the proprietary nature of the marks, Applicant has amended the claims to capitalize each instance of the “Java” mark. Applicant accordingly requests that the rejection be withdrawn.

Applicant respectfully traverses each of the prior art rejections (§§102(e) and 103(a)) based upon the teachings of U.S. Patent No. 6,772,205 to Lavian *et al.* (hereinafter

“Lavian”) because the Examiner has not asserted that Lavian teaches, nor does Lavian teach or suggest, each of the claimed limitations. For example, Lavian does not teach executing a proxy application in a terminal equipment where the proxy application provides an accessory software application with the services offered by the application interface of the terminal equipment, as claimed. Rather, the cited portions of Lavian merely teach that a separate proxy device is used to provide target device 112 (asserted as corresponding to the claimed terminal equipment) with a converted object-oriented application. There is no teaching or suggestion that the converted object-oriented application provides network device 102 (asserted as corresponding to the claimed accessory) with services provided by client application 226 (asserted as corresponding to the claimed application interface). Without a presentation of correspondence to each of the claimed limitations, each of the prior art rejections are improper.

With particular respect to the §102(e) rejection, Applicant notes that to anticipate a claim the asserted reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the patent claim; *i.e.* every element of the claimed invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain the rejection based on 35 U.S.C. §102. Applicant respectfully submits that Lavian does not teach every element of independent Claims 1, 17 and 26 in the requisite detail and therefore fails to anticipate Claims 1-6, 8-15, 17-24, 26-29 and 31-33.

In addition, dependent Claims 2-6, 8-15, 18-24, 25-29 and 31-33 depend from independent Claims 1, 17 and 26, respectively, and also stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Lavian. While Applicant does not acquiesce with the particular rejection to these dependent claims, the rejection is also improper for the reasons discussed above in connection with independent Claims 1, 17 and 26. These dependent claims include all of the limitations of independent Claims 1, 17 and 26 and any

intervening claims, and recite additional features which further distinguish them from the cited reference. Therefore, the rejection of dependent Claims 2-6, 8-15, 18-24, 25-29 and 31-33 is improper. Applicant accordingly requests that the §102(e) rejection be withdrawn.

With particular respect to several of the dependent claims, the Examiner has not shown, or even asserted, that Lavian teaches or suggests several of the claimed limitations. For example, with respect to Claim 3, the cited portions of Lavian do not discuss the converted object-oriented application (asserted as corresponding to the claimed proxy application). Moreover, the converted object-oriented application is obtained from a separate proxy device by target device 112 and not downloaded from an accessory, as claimed. The Examiner has also not asserted or shown that such downloading occurs “automatically after detecting the accessory.” For another example, the portions of Lavian relied upon for the rejection of Claim 28 do not address the network device 102, which is asserted as corresponding to the claimed accessory, nor do they identify any cover, as claimed. Further, the various devices listed that may connect to the target device 112 are not disclosed as executing any accessory software application or being provided any services offered by target device 112 via a proxy application. Lavian has not been shown to correspond to at least these dependent claims; therefore, the §102(e) rejection of at least these claims is improper. Applicant accordingly requests that the rejection be withdrawn.

With respect to the §103(a) rejections, Applicant respectfully traverses because the further asserted modification of Lavian and the reliance on U.S. Publication No. 2004/0152457 by Goldstein *et al.* (hereinafter “Goldstein”) do not overcome the above-discussed deficiencies in the teachings of Lavian. As discussed above, Lavian fails to correspond to the limitations of independent Claims 1, 17 and 26 (from which Claims 7, 16, 25, and 30 depend). It has not been shown that Goldstein or the asserted modification of Lavian would correspond to the limitations absent in Lavian. Thus, the asserted modification of Lavian and the asserted combination of the teachings of Lavian and Goldstein do not teach each of the claimed limitations of dependent Claims 7, 16, 25, and 30, and the rejection should be withdrawn.

In addition to having to show that the asserted combination of references teaches or suggests all of the claim limitations, the Examiner must show evidence of motivation to combine these references as asserted. Applicant respectfully submits that this requirement has not been met.

The requisite evidence of motivation to combine the cited references as asserted has not been presented, nor does such motivation exist based on the cited references. In the Office Action, the Examiner asserts that “One would have been motivated to implement a ‘Symbian’ software platform on a wireless communication system” as rationale for modifying the teachings of Lavian to include a Symbian software platform. However, Lavian is not directed to a wireless communication system and does not use the term “wireless” in the patent document. The Examiner also acknowledges this at pages 10-11 of the Office Action. Similarly, the proffered motivation for combining the teachings of Goldstein with Lavian is to “improve the functional capabilities of wireless devices equipment”. No evidence has been presented that a skilled artisan would modify the admittedly non-wireless network management system of Lavian to include wireless functionalities.

The examiner must show some objective teaching leading to the asserted combination. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). Since Lavian does not teach wireless connections, as discussed above, it is respectfully submitted that the teachings of Lavian and Goldstein would have provided insufficient guidance for a skilled artisan having these references before him/her to make the combination suggested by the Examiner. Applicant respectfully asserts that the Examiner’s conclusion of obviousness is, instead, based on improper hindsight reasoning using knowledge gleaned only from Applicant’s disclosure. As stated by the Federal Circuit:

Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight.

In re Dembiczak, 50 USPQ2d 1614, (Fed. Cir. 1999) (*citing Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985)). Without a suggestion of the desirability of “the combination,” a combination of such references is made in hindsight,

and the “range of sources available, however, does not diminish the requirement for actual evidence.” *Id.* It is a requirement that actual evidence of a suggestion, teaching or motivation to combine prior art references be shown and that this evidence be “clear and particular.” *Id.* Broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence. *Id.*

Moreover, Applicant requests clarification of the reference to “Kallior’s invention” at page nine of the Office Action. No document number has been provided for such a reference. Thus, the referred-to teachings are not properly relied upon. If the reference is a typographical error and is instead referring to the instant application, Applicant appreciates the acknowledgement that the instant application is an invention. However, as discussed above, any motivation for modifying the teachings of Lavian must be objective and not come from Applicant’s application.

As Lavian does not teach wireless connections, Applicant respectfully submits that the asserted modification and combination of Lavian’s teachings simply do not contemplate the proposed modification and combination. This piecemeal selection of elements is tantamount to mixing teachings out of context. Such a rejection is not permissible under §103. *See, In re Kotzab*, 217 F.3d 1365 (Fed. Cir. 2000) (proposed modification must not be made in the abstract but rather made in view of the entire teaching of the prior art).

There is nothing in the references or what is in the ordinary skill in the art that would lead to modifying or combining the cited references as asserted – rather, the proffered motivation is made in hindsight. For at least the aforementioned reasons, Applicant respectfully submits that a case of *prima facie* obviousness has not been satisfied for lack of a presentation of evidence of motivation to combine the cited references. Applicant accordingly requests that the rejections be withdrawn.

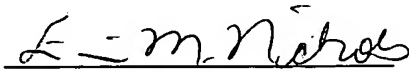
New claims 34 and 35 have been added and largely correspond to original Claims 26 and 17. Further support for these claims may be found in the instant Specification at paragraphs [0025] and [0023]. Thus, these claims do not introduce new subject matter, and they are believed to be patentable over the asserted references for the reasons discussed above.

Authorization is given to charge Deposit Account No. 50-3581 (NKO.017.US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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